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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------|-------------|----------------------|---------------------|------------------|
| 10/651,093 | 08/29/2003 | Thomas F. Egan | ACCESS-008XX | 7731 |
| 7590 | | 07/05/2005 | EXAMINER | |
| Thomas E. Anderson | | TRAN, THUY VAN | | |
| 8707 Seven Locks Road | | ART UNIT | | |
| Bethesda, MD 20817 | | PAPER NUMBER | | |
| | | 3652 | | |

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/651,093

Applicant(s)

EGAN, THOMAS F.

Examiner

Thuy v. Tran

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 9 is objected to because of the following informalities: it depends on the cancelled claim 1. In order to expedite the prosecution, claim 9 will be examined as depending on claim 2. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 2-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Czech et al. 5,180,275.

Czech '275 discloses a lifting apparatus for transferring a user to and from a seat of a vehicle, the lifting apparatus 10, Figs. 2-6, comprising a mounting and support assembly 22, 23 for attachment to a chassis of the vehicle, an extension arm assembly supported by the mounting and support assembly such that the extension arm is located substantially behind the vehicle seat 21, a modular and removable transfer seat (wheel chair) supported by the extension arm assembly for directly supporting a user seated thereon, and a support member 8 attached to the extension arm assembly for supporting the transfer seat. Wherein the extension arm assembly is operative to raise and lower the transfer seat such that the transfer seat may be positioned substantially adjacent to and level with a sitting portion of the vehicle seat.

Re claims 4, 5, 12 & 13, the support member 8 pivots about substantially horizontal axis between a substantially horizontal position and a substantially vertical position and wherein the transfer seat pivots about substantially horizontal axis when the support member is in its substantially horizontal position and about a substantially vertical axis when the support member is in its substantially vertical position.

Re claim 8, similar to claim 1 except the extension arm assembly is located substantially in front of the vehicle seat 21' (Figure 6).

Re claim 9 and 10, the extension arm assembly comprises telescoping inner and outer member (57, 60, Figure 9)

Response to Arguments

3. Applicant's arguments filed December 10, 2004 have been fully considered but they are not persuasive.

Applicant argues that the Examiner fails to show how Czech et al. teaches a transfer seat support by the extension arm assembly for directly supported a user. As broadly claimed, the wheel chair is the transfer seat supported by the extension arm assembly for directly supporting a user seated thereon.

Applicant argues that Czech et al. reference fails to show an extension arm assembly that is operative to raise and lower a transfer seat such that the transfer seat may be positioned substantially level with the vehicle seat. It is noted that "may be" is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. And, the extension arm assembly of Czech et al is capable of perform such recitation.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is 571-272-6932. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 571-272-6607. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVT



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600